HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.8792 OF 1992

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Between:

K.V.Ramanamurthy

……Petitioner

And

A.P.Grameena Vikas Bank, rep. by its Chairman and Disciplinary Authority, Srikakumal and another

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri Tuhin Kumar
for
Sri B.Nageswararao

Counsel for the Respondents : Ms.Uma Devi

Dated: 29-08-2006

In this petition, the petitioner has prayed for quashing order dated 02-05-1991 passed by Chairman and Disciplinary Authority of Sri Visakha Grameena Bank whereby different penalties were imposed on him.

At the commencement of hearing, Ms.Uma Devi, learned counsel for the respondents pointed out that during the pendecny of the writ petition, Sri Visakha Grameena Bank has merged with Andhra Pradesh Grameena Vikas Bank (hereinafter described as 'the Bank'). She then gave out that she has the instructions to appear on behalf of the Bank.

On his part, Sri Tuhin Kumar, learned counsel for the petitioner, made a request that he may be permitted to amend the description of respondent No.1 and also incorporate additional prayer for quashing order dated 02-11-1991 vide which the Chairman of Sri Visakha Grameena Bank conveyed the decision of the Board of Directors on the appeal preferred by the petitioner against the order of punishment.

The oral prayer made by Sri Tuhin Kumar is accepted and he is permitted to carry out necessary corrections in the cause title and prayer clause of the case.

For deciding the issues raised in the writ petition, it will be useful to briefly notice the facts.

While he was working as Clerk-cum-Cashier at Nandigama Branch of Sri Visakha Grameena Bank, the petitioner was transferred to G.Madugula Branch, Visakhapatnam District vide order dated 16-07-1983. He did not comply with the order of transfer. This led to initiation of departmental action against him under Sri Visakha Grameena Bank Staff Service Regulations, 1980. He was placed under suspension vide order dated 27-07-1983. After one year and two months, a regular departmental enquiry was instituted against him on

the following charges:

"II, (I): It is reported that

(I): You have refused to take delivery of your transfer orders on 16-7-1983 and made unwarranted remarks in the local delivery book. You were thus guilty of wilful in-subordination and disobedience of the lawful and reasonable orders of your superiors;

(II): On 19-7-1983 you came to the office and started attending to pre-mature encashment of special term deposits standing in your name/in the joint names of your self/and your wife/brother, even though you were officially relieved by the branch manager as at the close of the business on 16-7-83 consequent upon your transfer to the G.Madugula Branch. It is therefore, alleged that your above acts are subversive of discipline and violating the instructions of your controlling authority (Regulation 17 of Sri Visakha Grameena Bank Staff Service Regulations 1980).

(III): You had forcibly taken away the paid vouchers relating to the transactions put through on 19-7-83 from the custody of the cashier on counter duty between 2 P.M to 2.30 P.M and went out of the branch premises shouting.

Subsequently, you had sureptitively replaced all the vouchers excepting one paid S.B debit voucher for Rs.1735/- was drawn by you on your own account No.2206 and payment irrespect of which had already been received by you. Latter in the evening you had also demanded payment for the S.B.withdrawal under the pretext that the cash was not paid to you so far. You also had subsequently struck off the debit entry posted for Rs.1735/- in S.B ledger relating to your withdrawal and corrected the balance under your own hand-writing with the words reading as C.B. in particular column of the S.B.ledger also in the initials column of the S.B.ledger you had drawn two horizental lines

against the entry dated 19-7-83 with an intention not to permit authentication of the entry by the supervising officers.

It is therefore, alleged that you did all this with malafide intentions and premeditated plan which acts of yours are highly detrimental to the interests of the BANK. For that it is alleged that these acts of meaditing and tampering with Brach records indicate your fraud prove attitude. Such acts as your part are not only prejudicial to the interests of the Bank but also costs serious doubts on your integrity and bonafides. (Regulation 19 of Sri Visakhagrammena Bank Staff Service Regulations 1980).

(III). It is further reported that while you are working as joint custodian of the cash and vouchers at the Nandigama branch, you had lost one key of the Banks F.B.R.safe resulting in the incurring the expenditure of Rs.838-70 (as per bill submitted M/s.Godrej and Boyee Manufacturing Company Private Ltd). for changing the levers of the safe. You had not made good the loss inspite of repeated requests by the Bank.

It is, therefore, alleged that the key was lost by you out of sheer negligence which acts of your highly prejudicial to the interests of the Bank. (Regulation 19 of the Sri Visakha Grameena Bank Staff Service Regulations 1980).

2): That initially you had submitted your transfer T.A. bill for Rs.774-20 in connection with your transfer. Later on you had submitted another transfer T.A.Bill for Rs.777/- vide your letter dated 14-5-84 direct to Development Manager (Visakhapatnam) which varies in amount with bill submitted originally. The bill contained charges in respect of your wife, dependent parents and personal effects. Whereas your wife, dependent parents and your effected did not under take the journey, you had fraudulently claimed the expenses

for them also.

It is, therefore, alleged that such an act on your part is not only pre-judicial to the banks interests but also caste serious doubts on your integrity and bonafides (Regulation 19 of Sri Visakha Grameena Bank Staff Service Regulations, 1980).

3): You had been argumentative not carring the instructions of your superiors and proved problematic since the inception of your service in the Bank and you had not corrected your-self inspite of many written advices from your controlling authority.

It is, therefore, alleged that your behaviour of above nature is pre-judicial to the interests of the Bank."

The Enquiry Officer submitted report dated 20-02-1989 with the findings that charge Nos. II-1 to II-3 and III-1 are proved and charge Nos.III-2 and III-3 are partly proved. The disciplinary authority accepted the enquiry report and passed order dated 02-05-1991, whereby the following penalties were imposed on the petitioner:

"Charge. II.1.	"Reprimand"
Charge. II.2.	"Reprimand"
Charge.II.3.	"Degradation to the lower stage with the initial starting pay."
Charge.III.1.	"Stoppage of one increment which shall have the effect of postponing the future increments. The stoppage of one increment will be cumulative vide Regulation No.30 (i) (b) of Staff Service Regulations, 1980."
Charge.III.2.	"Reprimand"
Charge No.III.3.	"Reprimand""

In the appeal preferred by him against the order of punishment,

the petitioner raised several contentions including the one that the enquiry had not been held in consonance with the rules of natural justice. He claimed that the Enquiry Officer had not given him reasonable opportunity of defence. He also challenged the findings recorded by the Enquiry Officer by contending that the same were not based on correct appreciation of evidence.

The petitioner's appeal was rejected by the Board of Directors of the Bank in its 98th meeting held on 25-10-1991. The decision of the Board of Directors was communicated to the petitioner by the Chairman of the Bank vide letter No.DP.263 dated 02-11-1991, the relevant extracts of which are reproduced below:

> "The Board of Directors of the Bank at its 98th meeting held on 25.10.1991 under the Chairman-ship of Shri A.R.Prabakararao considered your Appeal dt.03.08.1991 against the order DP.53 Dt.02.05.1991 of the Disciplinary Authority and found that there was no case for any revision, and confirmed the penalty "Degradation of lower stage with the initial starting pay" imposed on you by the Disciplinary Authority.
>
> 02.This letter is being sent to you in duplicate. Please return the duplicate of this letter duly signed by you with date as an acknowledgement for our record."

The petitioner has challenged the order of punishment on the following grounds:

(1) Copy of the enquiry report was not supplied to him and he was not given opportunity to make representation against the procedure adopted by the enquiry officer and findings recorded by him on different charges.

(2) He was not given action oriented notice and opportunity of

hearing against the proposed punishment.

The petitioner has challenged the decision of the Board of Directors on the ground that the same does not satisfy the test of a speaking order.

In the counter filed on behalf of the respondents, it has been averred that the order of punishment was passed by the competent authority on the basis of the findings recorded by the Enquiry Officer. The petitioner's allegation that he had not been given reasonable opportunity of defence has been controverted by the respondents. According to the respondents, the petitioner was found guilty of deliberate disobedience of the order of transfer and other acts of misconduct and, therefore, he was rightly penalized. On the issue of non-supply of copy of the enquiry report, it has been averred that the regulations of the Bank do not provide for giving of enquiry report as a condition precedent to the imposition of punishment.

I have heard learned counsel for the parties and perused the record. In my opinion, it is not necessary to decide the points raised by the petitioner for questioning the legality of order dated 02-11-1991 because, in my considered view, the decision of the Board of Directors dismissing the appeal filed by the petitioner against the order of punishment is liable to be invalidated on the ground of violation of rules of natural justice.

The rules of natural justice are multi faceted and multi dimensional. One of the facets of the rules of natural justice is that all judicial, quasi-judicial and even administrative authorities who are entrusted with the task of deciding lis between the parties or passing order which affects the rights, interest or status of a person must record reasons in support of their findings and conclusions and such reasons should be communicated to the person concerned. The requirement of

recording reasons by judicial, quasi-judicial and even administrative authorities and communication thereof to the affected persons has been highlighted and reiterated in various judgments of the Supreme Court including the often referred decisions in **Harinagar Sugar Mills v. Shyam Sundar**[1], **M.P.Industries Limited v. Union of India**[2], **Bhagat Raja v. Union of India**[3], **Mahavir Prasad Santoshkumar v. State of U.P.**[4], **Travancore Rayons v. UOI**[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**[7], **S.N. Mukherjee v. Union of India**[8], **Charan Singh v. Healing Touch Hospital**[9] **State of Punjab v. Bagh Singh**[10], **State of Orissa v. Dhaniram Luhar**[11], **State of Rajasthan v. Sohan Lal**[12], **Cyril Lasrado v. Juliana Maria Lasrado**[13], **Mangalore Ganesh Beedi Works v. CIT**[14] and **Manorama Sachan v. Lucknow Development Authority**[15]. In **S.N. Mukherjee v. Union of India** ([8] supra) the Constitution Bench of the Supreme Court noticed the legal position obtaining in Australia, England, United States of America, referred to a large number of judicial precedents on the subject and laid down the following proposition:

> "… Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to

> the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U. S. A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case."

In **State of Punjab v. Bagh Singh**[10] (supra) the Supreme Court observed:

> "Reasons introduce clarity in an order. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

In **State of Rajasthan v. Sohan Lal**[12] (supra) the Supreme Court while dealing with the question whether the High Court was required to assign reasons for recording reasons while disposing of petitions filed under Section 378 (3) Cr.P.C. observed:

> "The hallmark of a judgment/order and exercise of judicial power by a judicial forum is to disclose the reasons for its decision and giving of reasons has been always insisted upon as one of the fundamentals of sound administration justice-delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. ... The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know of the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind. All the more so, when refusal of leave to appeal has the effect of foreclosing once and for all a scope for scrutiny of the judgment of the trial court even at the instance and hands of the first appellate court. …"

In **Cyril Lasrado v. Juliana Maria Lasrado**[13] (supra) the Supreme Court considered the same question and held as under:

> "… Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

In **Testeels Limited v. N.M. Desai, Conciliation Officer and another**[16], a Full Bench of the Gujarat High Court made a lucid exposition of law on the subject and I can do no better than to reproduce the relevant paragraphs of that judgment, which are as under:

> "There are two strong and cogent reasons why we must insist that every quasi-judicial order must disclose reasons in support of it. The necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set-up. Our Constitution posits a welfare State in which every citizen must have justice—social, economic and political and in order to achieve the ideal of welfare State, the State has to perform several functions involving acts of interferences with the free and unrestricted exercise of private rights. The State is called upon to regulate and control the social and economic life of the citizen in order to establish socio-economic justice and remove the existing imbalance in the socio-economic structure. The State has, therefore, necessarily to entrust diverse functions to administrative authorities which involve making of orders and decisions and performance of acts affecting the rights of individual members of the public. In exercise of some these functions, the administrative authorities are required to act judicially. Now what is involved in a judicial process is well settled and as pointed out by Shah J. in Jaswant Sugar Mills's case, AIR 1963 SC 677 supra, a quasi-judicial decision involves the following three elements:
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> (1) It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;
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> (3) It declares rights or imposes upon parties obligations affecting their civil rights; and
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> (4) The investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of material if a

dispute be on question of fact, and if the dispute be on question of law, on the presentation, of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.

Another reason of equal cogency which weighs with us in spelling out the necessity for giving reasons is based on the power of judicial review which is possessed by the High Court under Article 226 and the Supreme Court under Article 32. The High Court under Article 226 and the Supreme Court under Article 32 have the power to quash by certiorari a quasi-judicial order made by an administrative officer and this power of review exercisable by issue of certiorari can be effectively exercised only if the order is a speaking order and reasons are given in support of it. If no reasons are given, it would not be possible for the High Court or the Supreme Court exercising its power of judicial review to examine whether the administrative officer has made any error of law in making the order. It would be the easiest thing for an administrative officer to avoid judicial scrutiny and correction by omitting to give reasons in support of his order. The High Court and the Supreme Court would be powerless to interfere so as to keep the administrative officer within the limits of the law. The result would be that the power of judicial review would be stultified and no redress being available to the citizen, there would be insidious encouragement to arbitrariness and caprice. The power of judicial review is a necessary concomitant of the rule of law and if judicial review is to be made an effective instrument for maintenance of the rule of law, it is necessary that administrative officers discharging quasi-judicial functions must be required to give reasons in support of their orders so that they can be subject to judicial scrutiny and correction."

The aforementioned decisions have been referred to in the recent judgment of this Court in **Ambati Srinivasulu v. District Collector, Nellore**[17] for quashing the order passed by the Revenue Divisional Officer, Joint Collector and District Collector in the matter of

cancellation of authorization of fair price shop dealership on the ground that the same do not fulfill the requirement of a speaking order.

If the decision of the Board of Directors is scrutinized in the light of the above noted propositions of law, I do not have any hesitation to hold that the same is totally devoid of reasons and does not fulfill the requirements of a speaking order. In the appeal preferred by him, the petitioner had raised several grounds for challenging the procedure adopted by the Enquiry Officer and the findings recorded by him. The Board of Directors simply used the stock phrase like "that there was no case for any revision, and confirmed the penalty of "Degradation to lower stage with the initial starting pay"." In my considered view, while deciding the appeal preferred by the petitioner against the order of punishment, the Board of Directors was discharging a quasi-judicial function. Therefore, it was duty bound to record reasons for dismissing the appeal preferred by the petitioner. However, the fact of the matter is that the Board of Directors did not consider any of the points raised in the memorandum of appeal and arbitrarily dismissed the same without assigning any reason. In reply to the Court's query, Ms.Uma Devi, learned counsel for the Bank fairly stated that there is no other record containing reasons recorded by the Board of Directors.

In view of the above discussion, I hold that rejection of the appeal preferred by the petitioner is vitiated due to violation of rules of natural justice.

For the reason stated above, the writ petition is partly allowed. The decision of the Board of Directors, as communicated to the petitioner by its Chairman vide letter dated 02-11-1991, is quashed with the direction that the appeal of the petitioner be decided afresh after giving him opportunity of hearing.

Since the matter is almost fifteen years old, I consider it proper

to direct that the appellate authority shall decide the appeal of the petitioner within a maximum period of four months from today.

G.S. SINGHVI, CJ

29-08-2006

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[1] AIR 1961 SC 1669

[2] AIR 1966 SC 671

[3] AIR 1967 SC 1606

[4] AIR 1970 1302

[5] AIR 1971 SC 862

[6] AIR 1976 SC 437

[7] AIR 1976 SC 1785

[8] AIR 1990 SC 1984

[9] (2000) 7 SCC 668

[10] (2004) 1 SCC 547

[11] (2004) 5 SCC 568

[12] (2004) 5 SCC 573

[13] (2004) 7 SCC 431

[14] (2005) 5 SCC 75

[15] (2005) 9 SCC 425

[16] AIR 1970 GUJARAT 1

[17] 2006 (1) ALD 229